

Oaths.

1. Before what officers oaths, affirmations and affidavits may be taken.
2. Official seal of notary public not required.
3. False oaths, etc., perjury.
4. Examination before legislative bodies—who to administer oaths.
5. How affidavits taken out of the state.
6. Commissioners of deeds authorized to administer oaths.

R. S. 871.

An act relative to oaths and affidavits.

Revision—Approved March 27, 1874.

P. L. 1857, p. 238.
 " 1858, p. 218.
 " 1863, p. 461.
 " 1864, p. 15.

Before what officers oaths, affirmations and affidavits may be taken

Official seal of notary public not required.
 P. L. 1873, p. 125.
 Amended.

False oaths, etc., perjury.

Examination before legislature or committees.

P. L. 1871, p. 11.

Who to administer oath.
 False swearing perjury.

How affidavits taken out of the state.

P. L. 1860, p. 264.
 " 1871, p. 21.

Certificate to jurat.

1. That all oaths, affirmations, and affidavits required to be made or taken, by any statute of this state, or necessary or proper to be made, taken or used in any court of this state, or for any lawful purpose whatever, may be made and taken by and before any one of the following officers of this state, viz: the chancellor, or any judge of a court of record,^(a) or any master in chancery,^(b) or any justice of the peace,^(c) or any mayor, recorder or alderman of any city or borough, or any supreme court commissioner, or the clerk or surrogate of any county, or the clerk of any court of record, or any notary public; *provided*, that nothing herein contained shall apply to the official oath or affirmation required to be made or taken by any of the officers of this state, nor to any oath, affirmation or affidavit required to be made and taken in open court, nor to cases where it shall be necessary for the party making or procuring such oath, affirmation or affidavit, to give notice to any person interested, of the taking of such oath, affidavit or affirmation. (See *Sec. 6*).

2. It shall not be necessary to the validity or sufficiency of any oath or affirmation, or affidavit, made before any notary public of this state, or before any other officer named in the preceding section, that the same shall be certified under his official seal.

3. If any person shall wilfully and corruptly swear or affirm falsely, in or by any oath, affirmation or affidavit made or taken in pursuance of this act, such person shall be deemed guilty of perjury and punished accordingly.

4. The president of the senate, the speaker of the general assembly of the state of New Jersey, and the chairman of a committee of the whole, or of any select or standing committee of either house of the legislature, are respectively empowered to administer oaths and affirmations to witnesses, in any matter or case under their examination; and if any person shall wilfully or corruptly swear or affirm falsely, touching any matter or thing material to the point in question, whereto he or she shall be thus examined, such person shall be deemed guilty of perjury and punished accordingly.

5. Any oath, affirmation or affidavit required or authorized to be taken in any suit or legal proceeding in this state, or for any lawful purpose whatever (except official oaths and depositions required to be taken upon notice) when taken out of this state, may be taken before any notary public of the state, territory, nation, kingdom or country, in which the same shall be taken, or before any officer who may be authorized by the laws of this state to take the acknowledgment of deeds in such state, territory, nation, kingdom or country, and a recital that he is such notary or officer in the jurat or certificate of such oath, affirmation or affidavit, and his official designation annexed to his signature, and attested under his official seal, shall be sufficient proof that the person before whom the same is taken is such notary or officer; *provided*, that when any other certificate is required by law to be annexed to the certificate of such officer, other than a notary public, for the recording of a deed acknowledged

(a) The affidavit of newly discovered evidence to be admitted on the trial of an appeal may be taken before a judge of the pleas, *English v. Bonham*, 3 Gr. 431.

(b) A master in chancery may administer the oath to an arbitrator, notwithstanding the arbitration act specifies that such oath shall be taken before a justice of the peace, *Ruckman v. Ransom*, 6 Vr. 565.

(c) That a justice of the peace had no power before A. D. 1830, to administer an oath in any proceeding not pending before him, see *Hunt v. Langstroth*, 4 Hal. 223. *Munn v. Harrison*, 2 Gr. 183. *Scull v. Alter*, 1 Harr. 147. But see *Smith v. Abbott*, 2 Harr. 358.

before him, a like certificate shall be annexed to his certificate of the taking of such oath; and if any such oath, affirmation or affidavit, or any material part thereof, shall be untrue, any person who shall use or offer the same for any purpose whatever, knowing the same to be untrue, shall be guilty of a high misdemeanor, and shall upon conviction thereof suffer the same punishment as if convicted of subornation of perjury, and shall be subject to the same disabilities.

If such affidavit false, person using the same, knowing the falsity, guilty of a misdemeanor.

Supplement.

Approved March 31, 1875.

P. L. 1875, p. 47.

6. SEC. 1. That the act entitled "An act relative to oaths and affidavits," approved March twenty-seventh, one thousand eight hundred and seventy-four, be and the same is hereby amended by inserting the words "or any commissioner of deeds" after the words "notary public" in section one of said act.

Commissioners of deeds authorized to administer oaths.

Obligations.

I. SEAL.

1. Scroll good seal for certain purposes.

5. Real sum due and not penalty considered as the debt.
6. Payment after the stipulated debt may be pleaded.
7. Of bringing money into court.

II. ACTIONS ON.

2. Joint debtors separately answerable.
3. So of representatives of.
4. Payment may be pleaded in bar.

III. BONDS WITH SPECIAL CONDITIONS.

8. Assignment of breaches for non-performance of covenants.
9. On payment of damages assessed, execution stayed.

An act concerning obligations.

R. S. 801.

Revision—Approved March 27, 1874.

P. L. 1855, p. 296.
" 1870, p. 47.

I. Seal.

1. That every bond or other instrument in writing to which the obligor or person named therein, or who signed the same, shall have affixed a scroll, or ink, or other device, by way of a seal, shall be taken and adjudged to be of the same force and effect as if it was actually sealed with wax.

A scroll or other device by way of a seal, shall be of same force as if sealed with wax.

R. S. 801, § 1.

P. L. 1870, p. 47.
Amended.

II. Actions on.

2. All persons jointly indebted to any other person or persons, upon any joint contract, obligation, matter, or thing, for which a remedy might be had at law against such debtors, in case all were taken by process issued out of any court of this state, shall be answerable to their creditors separately for such debts; that is to say, such creditor or creditors may issue process against such joint debtors, and in case any of such joint debtors shall be taken and brought into court, by virtue of such process, such of them so taken and brought into court shall answer to the plaintiff or plaintiffs; and if judgment shall pass for the plaintiff or plaintiffs, he, she or they shall have his, her, or their judgment and execution against such of them so brought into court, and against the other joint debtor or debtors named in the process, in the same manner as if they had been all taken and brought into court by virtue of the said process. (a)

Joint debtors separately answerable.

R. S. 801, § 3.

How sued.

(a) Summons is well served on one of two joint debtors. *Reid v. Crawford*, Pen. *622. The original act (1771) entitled the plaintiff to judgment against all the joint debtors "named in the proofs," *Ford v. Munson*, 1 South. *93. Query, whether the alteration was a mistake in the engrossing or printing of the act of 1799, *Ibid.* To give the court jurisdiction, the return of the sheriff and the record should show that the absent defendant was not to be found in his bailiwick, *Ibid.* Where a *capias* was served on one of several joint defendants, and the plaintiff entered a waiver of bail on the minutes, filed his declaration and took judgment against all, they are not within the statute "brought into court," and after writ of inquiry the other defendants, on affidavit of merits, were allowed to open the judgment, *Gulick v. Thompson*, 1 South. *292. After a service of a summons on one defendant, the other defendant having been returned "not found," he may appeal in the name of both without summons and severance, *Pharo v. Parker*, 1 Zab. 332, 752. The act does not include actions of *trespass*,

McKelway ads. *Jones*, 2 Harr. 345. Where one is served and the other returned not found, judgment cannot be entered by default within sixty days from the return of process, by serving notice of filing the declaration on the defendant who was served, without also serving it upon the other, *McMurtrie v. Doughlen*, 4 Zab. 252. See *Schuyler v. McCrea*, 1 Harr. 248. In case of judgment by default against absent defendants published, the entry of the judgment should show how they were brought into court, *Stillwell v. Tomlinson*, 7 Vr. 359. The act applies to non-residents. *Harker v. Brink*, 4 Zab. 333. A non-resident could show, in a proceeding to enforce the judgment in this state, that he was not a joint debtor. *Ibid.* After service on one only and no appearance entered by the other, if the plaintiff declare and proceed to trial against both, and on the trial the contract appears to have been made with only one of the defendants, he should be non-suited. *Fleming v. Freese*, 2 Dutch. 263. The declaration need not state why process was not served on all, *American Thread Co. v. Sheldon*, 2 Vr. 421.